

POLICY AND GUIDANCE ON REASONABLE ACCOMMODATION FOR RELIGIOUS BELIEFS AND PRACTICES.

1. PURPOSE: This guidance describes policies, procedures and establishes responsibilities for INSCOM in the area of Reasonable Accommodation (RA) for an individual's religious practices. Coverage under this guidance extends to INSCOM civilian employees. The guidance objectives are to:

a. Establish a procedure that will support the prompt, fair, and efficient processing of requests for RA;

b. Increase awareness of the responsibility to accommodate religious beliefs and practices;

c. Ensure compliance with the provisions of this policy.

2. REFERENCES:

a. Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against individuals because of their religion in hiring, firing, and other terms and conditions of employment. (TAB A)

b. 29 CFR 1605.2(b). An employer is required to reasonably accommodate an employee's bona fide religious beliefs and practices, unless it demonstrates that accommodation would result in an undue hardship on the conduct of its business. (TAB B)

c. Guidelines on Religious Exercise and Religious Expression in the Federal Workplace. The White House, 14 Aug 97 (TAB C)

3. KEY TERMS.

Essential Functions: Job duties that are so fundamental to the position that the individual cannot do the job without being able to perform them, is considered essential. A function is "essential" if, among other things, the position exists specifically to perform that function. There are a limited number of other employees who could perform the function if it was assigned to him/her or the function is specialized and the incumbent is hired based on his/her ability to perform it.

Extenuating Circumstances: Factors that could not reasonably have been anticipated or avoided in relation to the request for the RA.

Reasonable Accommodation: A change in the work environment or in the way things are customarily done that would enable an individual with a religious practice or belief to enjoy equal employment opportunities.

Undue Hardship: A specific accommodation that involves significant difficulty or expense. This determination, which must be made on a case-by-case basis, considers factors such as the nature and cost of the accommodation needed; the size and budget of the organization, and the impact of the accommodation on the operation of INSCOM.

Title VII of the Civil Rights Act of 1964 prohibits harassment or discrimination based on:

- Affiliation – membership or affiliation with a particular religious or ethnic group;
- Physical or Cultural Traits – physical or cultural or linguistic characteristics such as an accent or dress associated with a particular religion, ethnicity, or country of origin;
- Perception – perception or belief that a person is a member of a particular racial, national origin, or religious group whether or not that perception is correct; and
- Association – an individual's association with a person or organization of a particular religion or ethnicity.

4. POLICY. The policy INSCOM is to implement a formal process (written procedures) to assure individuals with sincerely held religious beliefs and practices are provided reasonable accommodations if necessary, whenever possible, in the workplace and in employment-related situations in a timely manner.

5. RESPONSIBILITIES.

a. Commanders and Supervisors at all levels will:

(1) Promote the RA process, by ensuring all employees and supervisors know and understand the process.

(2) Provide necessary resources to support the RA process.

b. Management officials/first-level supervisors will:

(1) Assure employees are aware of their right to request RA because of a religious consideration.

(2) Review RA requests received from employees.

(3) Fully consider and approve RA requests, whenever possible.

(4) RA request, whether approved or disapproved will be forwarded to G1, Chief, Human Resource Division (CHRD), who will forward to Equal Employment Opportunity (EEO) Office.

c. INSCOM G1, CHRD will:

- (1) Review RA requests received from employees and supervisors.
- (2) Consider and approve RA requests for employees and supervisors, whenever possible, and coordinate request with EEO Office.
- (3) Where appropriate, provide advice and information to supervisors regarding RA for employees with religious beliefs and practices.

d. Servicing EEO Office will:

- (1) Serve as the proponent for the RA Program on all INSCOM RA requests.
- (2) Submit RA data for INSCOM employees to the INSCOM EEO Office no later than 15 Oct of each year, for inclusion in the INSCOM Annual Affirmative Employment Program Plan.

6. THE REASONABLE ACCOMMODATION PROCESS.

a. An employee may initiate a request for RA preferably in writing. The employee will be asked to complete an RA request form for record keeping purposes. A sample form is at Appendix A. However, a person's oral or written request starts the RA process. When an individual requests assistance in completing the RA request form, the activity must provide that assistance.

b. The RA process is initiated when a person with a particular religious belief or practice indicates the need for an adjustment or a change at work or in the application process **for reasons related to a religious practice**. For example, it is sufficient for a person to state that he/she is having a problem with an established tour of duty because of religious practice.

c. The need for a RA should then be confirmed with the person.

d. First-line supervisors will consider and approve requests for RA whenever possible. Each RA request will be different and will be considered on a case-by-case basis. However, an employee or applicant for employment should be informed as soon as possible on the status of his/her RA request. Where the requested RA is simple and straightforward and there is no question of undue hardship to INSCOM, **processing of the RA request should not exceed thirty (30) days**. If there are extenuating circumstances that will preclude providing the requested RA within 30 days, the requestor will be notified of the reason for the delay and will be provided with the anticipated completion date **in writing**.

e. Information on the type of RA and the date the RA that is provided will be documented and filed with the RA request form.

7. RELIGIOUS ACCOMMODATION

a. Employers may not treat employees or applicants less - or more - favorably because of their religious beliefs or practices. For example, an employer may not refuse to hire individuals of a certain religion, may not impose stricter promotion requirements for persons of a certain religion, and may not impose more or different work requirements on an employee because of that employee's religious beliefs or practices.

b. Employees cannot be forced to participate -- or not participate -- in a religious activity as a condition of employment.

c. Employers must reasonably accommodate employee's sincerely held religious beliefs or practices unless doing so would impose an undue hardship on the employer. A reasonable religious accommodation is any adjustment to the work environment that will allow the employee to practice his/her religion. Flexible scheduling, job reassignments, lateral transfers, and modifying workplace practices, policies and/or procedures are examples of how an employer might accommodate an employee's religious beliefs.

d. An employer is not required to accommodate an employee's religious beliefs and practices if doing so would impose an undue hardship on the employer's legitimate business interests. INSCOM can show undue hardship if accommodating an employee's religious practice requires more than ordinary administrative costs, diminishes efficiency in other jobs, infringes on other employees' job rights or benefits, impairs workplace safety, causes co-workers to carry the accommodated employee's share of potentially hazardous or burdensome work, or if the proposed accommodation conflicts with another law or regulation.

e. Employers must permit employees to engage in religious expression if employees are permitted to engage in other personal expressions at work, unless the religious expression would impose an undue hardship on the employer. Therefore, INSCOM may not place more restrictions on religious expression than on other forms of expression that have a comparable affect on workplace efficiency.

f. Requests for information about an employee's religious beliefs in order to accommodate that employee does not violate the employee's Privacy Act rights.

8. TYPES OF REASONABLE ACCOMMODATION.

a. Modifications or adjustments may be made to the application process, to the job or to the workplace. Refer to the examples described in item 7c.

b. Compressed Work Schedule (CWS) arrangements between a supervisor and an employee should be considered as options for RA.

c. Approve employees leave for religious observances, time and/or place to pray, and ability to wear religious garb. Flexible scheduling, voluntary substitutes, "swaps," lateral transfers, and change of job assignments.

d. Job restructuring.

e. As stated previously in Item 6e, information on the type of RA and the date the RA is provided should be documented and filed with the RA request form.

9. DENIALS OF REASONABLE ACCOMMODATION.

a. If an individual's request for RA is denied, the individual must be notified **in writing** of the reasons for the denial. The denial should be written in plain language, be as specific as possible, and should identify the office and individual who made the decision.

b. If a specific RA is denied, but an alternate RA is offered, the notice should explain the specific reason(s) for the denial and the reason(s) that another accommodation is considered to be a good alternative.

c. The notice must also include an explanation of the informal procedures that are available for a review of the denial action. Individuals should be encouraged to first discuss the denial with the person who made the decision (the deciding official). If the requestor is not satisfied, he/she would then have the opportunity to appeal the denial action to others in the deciding official's chain of command. If the matter has still not been resolved to the requestor's satisfaction, there will be the opportunity to proceed under an alternative dispute resolution (ADR) process. The individual challenging the denial of a RA request may participate in ADR **without** having to file an EEO complaint.

10. INFORMAL PROCEDURES AND EEO COMPLAINTS.

a. The informal procedures discussed in item 9c above must be **in addition to** and may not modify or replace the EEO Complaint Process; Merit Systems Protection Board (MSPB); or union grievance procedures available to Army employees or applicants.

b. The informal procedures (reference item 9c) are strictly voluntary and may not be used to limit an individual's rights. The employer may not prevent an individual from filing an EEO complaint, MSPB, or union grievance even if he/she is also pursuing the steps detailed in the informal procedures.

c. The informal procedures (reference item 9c) do not affect the time limits for the EEO Complaint Process. Thus, when the employer denies an RA request, he/she must notify the individual **in writing** that if he/she wishes to file an EEO complaint on the denial action, he/she must do so within 45 days of the receipt of the denial action, even if he/she is also pursuing the steps detailed in the informal procedures.

d. Servicing EEO Offices may provide information regarding the filing of an EEO discrimination complaint.

11. TRACKING REQUIREMENTS.

a. The HQ INSCOM EEO Office is the proponent for RA. As a result, at the operational level, the servicing EEO Office is responsible for tracking the following information:

- The number and types of RA's that have been requested, whether those requests were granted or denied;
- The jobs (occupational series, grade level, and organization) for which RA's have been requested;
- The types of RA's that have been requested for each of those jobs;
- The number and types of RA's for each job, by organization, that have been approved, and the number and types that have been denied;
- The number and types of requests for RA's that relate to the benefits or privileges of employment, and whether those requests have been granted or denied;
- The reasons for denial of requests for RA;
- The amount of time taken to process each RA request; and
- Sources of technical assistance that have been consulted in trying to identify possible RA's.

b. Servicing EEO Offices will submit the RA tracking information data detailed above to the INSCOM EEO Office not later than 15 Oct each year for the inclusion of this data in the Annual AEP Plan. A sample form is at Appendix C.

12. DISPOSITION OF REASONABLE ACCOMMODATION REQUEST DATA TO INCLUDE MEDICAL INFORMATION.

a. Documentation related to a particular individual who has requested RA should be filed apart from other personnel records, safeguarded regarding confidentiality requirements, and maintained for the duration of that employee's employment.

b. The tracking information data should be maintained for a period of three years. This data will assist an organization to evaluate its performance regarding the adequate and timely processing of RA requests and to take corrective action, if required.

13. APPENDICES.

- a. Reasonable Accommodation (RA) Request Form (recommended format)
- b. Reasonable Accommodation (RA) Request Checklist (recommended format)
- c. Reasonable Accommodation (RA) Tracking Information - Annual Report to INSCOM (recommended format)

APPENDIX A

Reasonable Accommodation (RA) Request Form

Before completing and submitting this form, please read the following Privacy Act Statement

PRIVACY ACT STATEMENT

The Army is authorized to collect the information by Section 501 of the Rehabilitation Act of 1973, 29 USC 791 and 1972 Congressional Amendment to Title VII. The information provided by you will be used primarily to facilitate the processing of your request. Furnishing of the requested information and documentation is voluntary. However, failure to fully complete this form or provide the necessary information may result in either a delay of the needed accommodation or the denial of your request.

1. I am a person with a religious practice who is requesting a reasonable accommodation under the Title VII of the Civil Rights Act of 1964. I am requesting accommodations because I have religious practice(s) described below.

Condition(s): (Describe condition(s) for which accommodation(s) is/are needed)

Situation or Job Task(s): (Describe the current employment situation, i.e., job tasks, employment practice, or workplace barrier that keeps you from performing essential job functions or from receiving equal benefits and privileges of employment.)

Accommodation(s) Requested: (Identify suggested accommodation(s) or state if possible accommodations are not known. Provide recommendations for alternative accommodation(s) where possible.)

2. Employee/Applicant/Requestor:

Typed/Printed Name _____

Position Title, Series & Grade _____

Work Phone Number _____

Home Phone Number _____

Signature _____

Date _____

Note: If the requesting employee/applicant is unable to sign (e.g., in hospital, blind, etc.) a representative will “sign for” on this line.

APPENDIX B

Reasonable Accommodation (RA) Request Checklist (For management's use in processing employee requests)

Warning: Information contained in this document is protected by the Privacy Act (5 USC 552a)

In accordance with the Act:

(1) Only information about the individual that is relevant and necessary to accomplish the purpose of determining and evaluating a request for RA should be requested; 5 USC 552a(e)(1);

(2) Information should be collected directly from the individual requesting the RA, particularly when the information may result in sensitive determinations about the individual's rights, benefits, and privileges that include possible RA (5 USC 552a(e)(2);

(3) Appropriate administrative, technical and physical safeguards must be followed to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity. Not safeguarding sensitive information appropriately could result in substantial harm, embarrassment, inconvenience or unfairness to any individual on whom information is maintained; 5 USC 522a(e)(10).

1. Request for accommodation:

a. Written? Yes_____ (attach copy) No_____

b. Oral? Yes_____ (attach supervisor's documentation) No_____

c. Date _____

d. Name/job title of employee for which request is being made

e. If someone other than the person named in 1.d. above is making the request, provide name/address/phone number and relationship of person making the request.

f. Did employee receive a copy of Privacy Act Statement? Yes_____ No_____

2. Employee's stated accommodation:

a. What is the nature of the religious practice?

b. Date coordinated with EEO Office _____

3. Meeting with employee:

a. Is a meeting needed to clarify needs? Yes ____ No ____

b. Narrative describing discussion with employee (May include: Which job duties are affected? Are any of the duties impacted considered essential elements of the employee's position? If so, can accommodations be made to enable the employee to perform these tasks?)

c. List possible accommodations:

4. Coordination with EEO Office:

a. Date of meeting _____

5. Alternative Actions/Accommodations Recommendations:

a. Are any of the listed accommodations an undue hardship? (Generalized conclusions will not suffice to support a claim of undue hardship. Undue hardship must be based on an individualized assessment of current circumstances that show a specific reason accommodation would cause significant difficulty or expense to the Army.) If so, explain:

6. Accommodations chosen, if any (explain reason for choice)

7. Effective date for the RA: _____

Additional Notes:

APPENDIX C

Reasonable Accommodation (RA) Tracking Information Annual Report to INSCOM for FY _____:

1. RA Requests submitted by employees

The occupational series, grade, and organization for which RAs have been requested by employees:

2. Types of RAs that have been requested for each of those jobs:

3. Number and types of RAs for each job, by organization, that have been approved:

4. The number and types that have been denied:

5. The number and types of requests for RAs that relate to the benefits or privileges of employment:

6. Were those requests granted or denied? _____

7. Reasons for denial of requests for RA:

8. The amount of time taken to process each RA request: _____

9. The sources of technical assistance that have been consulted in trying to identify possible RAs:

10. Submission Data:

a. Servicing EEO Office: _____

b. POC for this report: _____

c. Phone Numbers: _____

d. E-mail address: _____

e. Date of submission: _____
